

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MICHAEL SHELIGA, :
Plaintiff :
v. : Case No. 3:23-cv-139-KRG-KAP
WINDBER BOROUGH, *et al.*, :
Defendants :

Memorandum Order

At ECF no. 40, I issued an order to have the parties put the issues in the motion to dismiss in a posture to be decided as a motion for summary judgment to the extent I would need to look beyond the complaint itself. *See* the parties' briefs at ECF no. 11 and ECF no. 12. Plaintiff filed two motions in response to ECF no. 40: a motion for discovery, ECF no. 42, and a motion for clarification, ECF no. 43. Both are denied as premature.

When I read the motion at ECF no. 42 I went back and compared it to the original complaint at ECF no. 1 and discovered that the complaint at ECF no. 1 does not appear to be the complaint the parties have been referring to. The complaint as docketed at ECF no. 1 is six pages long with three pages of a civil cover sheet, and the damages claim is for \$1. The complaint as referred to by plaintiff, *see e.g.* ECF no. 42 at 2, allegedly contains a demand for \$5000 in damages; as referred to by defendants, *see e.g.* ECF no. 11 at 2, the complaint allegedly contains several more pages.

I was added to this matter as a result of the filing of the TRO motion at ECF no. 15, and that was after the motion to dismiss was filed and briefed. The matter was then at the Court of Appeals. I returned to this case within the month when it returned to this jurisdiction after the Court of Appeals' affirmance of the denial of the TRO. It may be that the parties have been working from the same complaint and this is something addressed before the matter came to me, but it is not obvious from the record that that is the case.

The parties shall confer and jointly explain why the complaint at ECF no. 1 differs from the one they have been citing. If they cannot agree on that or on the text of the complaint, they should call my courtroom deputy for some times in February when they are available for a hearing, so that I can determine what version should be considered. After that there may be some point to plaintiff's motions.

DATE: January 29, 2025



Keith A. Pesto,
United States Magistrate Judge

Notice by ECF to parties or their counsel